



Winston H. Hickox
Secretary for
Environmental
Protection

State Water Resources Control Board

Division of Water Rights
1001 I Street, 14th Floor • Sacramento, California 95814 • (916) 341-5300
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000
FAX (916) 341-5400 • Web Site Address: <http://www.waterrights.ca.gov>



Gray Davis
Governor

NOTICE OF APPLICATIONS TO APPROPRIATE WATER BY PERMIT

**APPLICATION: 31315
31399**

**DATE FILED: April 8, 2002
February 25, 2003**

Notice is hereby given that Michael J. Milovina has filed two applications for water right permits to divert water from the Russian River (subterranean stream) tributary to the Pacific Ocean in Mendocino County. The State Water Resources Control Board (SWRCB) will determine whether water right permits should be issued for the applications and, if so, whether conditions are needed in the permits to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed projects and also describes the procedure and time frame for submittal of protests against the applications. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

Michael J. Milovina
P.O. Box 916
Hopland, CA 95449-0916

Description of Projects

In accordance with California Code of Regulations Section 689, the applicant has submitted separate applications for his operation. Application 31315 is for direct diversion for irrigation, heat control, and incidental domestic use, Application 31399 is for direct diversion for frost protection. The applicant has secured an alternate water supply from the Russian River Flood Control District to supply water during the summer months. The project is located approximately two miles northeast from Ukiah.

Application 31315

The applicant seeks a right to continue to directly divert 1.9 cubic feet per second (cfs) not to exceed 30 acre-feet annually (afa), by pumping from the Russian River subterranean stream via an existing 8-inch PVC buried pipe, 330 feet in length with a discharge rate of 1.2 cfs and 113 horsepower. The primary purpose for the water is for irrigation and heat control of 13.2 acres of berries, including incidental use for trees and vegetable crops. The applicant has also included domestic as an incidental use.

Application 31399

The applicant seeks a right to continue to directly divert 1.1 cubic feet per second (cfs), not to exceed 9 afa, by pumping from the Russian River subterranean stream via an existing 8-inch PVC buried pipe, 330 feet in length with a discharge rate of 1.2 cfs and 113 horsepower. The primary purpose for the water is for frost protection of 13.2 acres of berries, including incidental use for trees and vegetable crops.

Summary of Applications 31315 and 31399

"The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>"

County: Mendocino
 Source: Russian River Subterranean Stream
 Point of
 Diversion: Located within the NW¼ of SW¼ of Section 9, T15N, R12W, MDB&M.

Application 31315

Amount: 1.9 cubic feet per second of direct diversion, not to exceed a total of 30 acre-feet per year. The maximum combined amount under this application and Application 31399 shall not exceed 39 afa.
 Purposes: Irrigation, heat control and domestic
 Season: March 1 through June 30 and November 1 through February 28 (irrigation)
 June 1 through June 30 and November 1 through November 30 (heat control)
 January 1 through June 30 and November 1 through December 31 (domestic)
 Place of Use: Refer to Application 31399 listed below.

Application 31399

Amount: 1.1 cubic feet per second of direct diversion, not to exceed a total of 9 acre-feet per year. The maximum combined amount under this application and Application 31315 shall not exceed 39 afa.
 Purpose: Frost Protection
 Season: February 1 through June 15
 Place of Use:

Use Within	Projected Section	Township	Range	B & M	If Irrigated	
					Number of Acres	Presently Cultivated (Y/N)
NW¼ of SW¼	9	15N	12W	MD	8.7	yes
SW¼ of SW¼	9	15N	12W	MD	2.5	yes
SE¼ of SE¼	8	15N	12W	MD	2.0	yes
Total					13.2	

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; SWRCB, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the SWRCB.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the SWRCB is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the SWRCB's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the SWRCB may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division of Water Rights' website at www.waterrights.ca.gov/forms/ or upon request from the Division of Water Rights. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the engineer listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **40th** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 14th Floor, Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division of Water Rights in order for the protest to be accepted. The SWRCB will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the SWRCB may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division of Water Rights. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

These applications are "minor" projects (the proposed diversion is 3 cubic feet per second or less by direct diversion or 200 acre-feet or less per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the Chief, Division of Water Rights, following a field investigation.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Patricia Meroney by phone at (916) 341-5354 or by electronic mail at pmeroney@waterrights.swrcb.ca.gov. Information and protest forms are also available at the Division's website: www.waterrights.ca.gov/forms/.

Date of Notice: **October 3, 2003**